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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,988	11/18/2003	James J. Fitzgibbon	5569/79076	4889
22242 7590 08/21/2007 FITCH EVEN TABIN AND FLANNERY 120 SOUTH LA SALLE STREET SUITE 1600 CHICAGO, IL 60603-3406			EXAMINER HOLLOWAY III, EDWIN C	
			ART UNIT 2612	PAPER NUMBER
			MAIL DATE 08/21/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/715,988

Applicant(s)

FITZGIBBON ET AL.

Examiner

Edwin C. Holloway, III

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2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,7-12,14 and 17-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,7-12,14 and 17-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

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**EXAMINER'S RESPONSE**

1. In response to applicant's amendment filed 6-20-07, all the amendments to the specification and claims have been entered.

The examiner has considered the new presentation of claims and applicant's arguments in view of the disclosure and the present state of the prior art. And it is the examiner's position that the claims are unpatentable for the reasons set forth in this Office action:

2. Please note that this application has been docketed to a new examiner. See the contact information for details.

**Claim Rejections - 35 USC § 112**

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-2, 4, 7-12, 14, 17-21 are rejected under 35

U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant has not

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identified support for the amended claims in the specification as originally filed, nor has applicant stated that no new matter has been added by the amendment. Support is lacking for at least "wherein the receipt of the close signal from the close button automatically causes the controller to issue a close barrier signal at the output in order to close the barrier without the need to authenticate any user authorization code" in claims 1 and 11. Further, "without authentication" is contradicted by claims 8-9 and 19-20 requiring RF ID input or biometric input that is considered to be authentication. Applicant should specifically point out support in the original disclosure for the new or amended claims. See MPEP 714.02 and 2163.06.

***Claim Rejections - 35 USC § 102 & 103***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 1-2, 4 7-8, 10-12, 14, 17-19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark (US 4,847,542) in combination with Fitzgibbon '253 (US005841253A).

In claims 1 and 11, Clark et al teach of an entry control system (100) for permitting authorized users to access a controlled area by moving a barrier, comprising:

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a secure push-button 117 or door push-button 115 (i.e. close button) generating a secure signal including a house code 133 (i.e. coded signal) {col. 3, lines 39-50+};

a house code device 113 and 123 (i.e. entry request device) for accepting a user authorization code (i.e. house code) {col. 3, lines 28-38+};

a motor controller 120 operably coupled to the entry request device and the secure push-button 117 or door push-button 115 and having an output, as shown in Fig. 1,

such that the motor controller receives and authenticates the house code (i.e. user authorization code) {col. 4, lines 19-30} and an indication of a position of the barrier {col. 4, lines 34-46} and determines based at least in part upon a successful authenticating of the house code (i.e. up door or down door) and the indication of the position of the barrier whether a first control signal should be generated at the output {col. 7, line 48+}, the motor controller (120) also receiving a secure signal indicating actuation of the close button and selectively generating a second control signal at the output based at least in part upon the indication of the position of the barrier {col. 9, lines 12+}. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to readily recognize that the transmission of the

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secure signal is analogous to the claimed "user authentication code indicating an actuation of the close button". The house code in the secure signal of Clark is obviously used by the controller 120 to authenticate a RF transmitter to determine whether the RF transmitter is intended for a certain household or not, by determining whether the RF transmitter employs the same house code stored in the house code unit 123. This also prevents non-authorized RF transmitters (i.e. not having the same house code) to operate the barrier {see background of the invention, col. 1, lines 18-26}. The system includes the first control signal opens the barrier (i.e. movement of the door is upward) and the second control signal closes the barrier {col. 10, lines 46-48. also see flowchart of Figs. 2A-2D}.

Although Clark is silent with regards to close barrier signal caused by close button "without the need to authenticate any user authorization code," such is at least suggested by the mode switch 129 and/or conventional wall mounted pushbuttons to cause movement to close the door without coded input from the RF transmitter. See coo. 4 line 58 - col. 5 line 3.

Fitzgibbon '253 discloses an analogous art garage door operator with button 39 input to controller 101 without code authentication by RF receiver/decoder 107. This allows automatic door closing from a local controller 19 without

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authentication of code from the RF transmitter 24. See figs. 1-2 and cols. 3-4.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in Clark the automatic door closing caused by a button without authentication as disclosed by Fitzgibbon '253 for local control that is suggested by the push button switches in the garage of Clark.

In claims 2 and 12, the system of claim 1 comprising a receiver communicatively coupled to the transmitter at the output, the receiver receiving the first and second control signals {col. 4, lines 11+}.

In claims 4 and 14, the system of claim 1 wherein the entry request device is a plurality of two position switches for specifying the house code (i.e., keypad) {col. 3, lines 28-37+}.

In claims 7 and 17, the system of claim 1 wherein the close button changes function after a predetermined time period {col. 9, lines 45+}. In this case, when the close button is pressed the second time, the close button changes to unsecure. Also see col. 7 lines 14-37 with regards to the controller time.

In claims 8 and 19, the system of claim 1 comprising RF receiver 122 (i.e. detector) for detecting the house code (i.e. RF-ID) coupled with secure and unsecured control signals, and

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wherein the second control signal is not transmitted unless the controller detects an RF-ID. In this case, if the second control signal (secure signal) is not detected by the RF-ID receiver (122), it is considered by the controller 120 as not having the secure signal transmitted.

In claims 10 and 21, the system of claim 1 wherein the generation of the control signals is delayed for a predetermined time after the actuation of the specific action button. See col. 7, lines 12-37 with regards to the motor controller timer. In this case, if the garage door is moving up or down and the specific action button is triggered to cause the garage door to move to the opposite direction (col. 10, lines 46-49; col. 11, lines 5-9). An Official notice is taken in that it would have been obvious to one of ordinary skill in the art to readily recognize that the generation of the control signal to reverse the direction of the motor is delayed for a predetermined time, depending on the type of motor used (usually given in the motor specification), to avoid ruining the motor.

In claim 18, the secure button (close button) of Clark functions as a stop button whenever an obstruction is detected or the motor times out (col. 8, lines 21+).

8. Claims 9 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark (US 4,847,542) and Fitzgibbon '253



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(US005841253A) as applied above and further in view of Pinzon (US 6,161,005).

With regards to claims 9 and 20, Clark does not disclose a biometric identification system. However, these claimed features have been conventionally used to authenticate a user, as evidenced by Pinzon. Pinzon, in the same field of endeavor, teaches of a remote door locking/unlocking apparatus shown in figure 2A, incorporating a voice recognition system (25) (i.e. biometric identification system) for authenticating a user {Pinzon, col. 6, lines 18-30+}. Pinzon suggests that authenticating a user with voice recognition is advantageous because of the unique characteristics of individuals and a voice recognition system do not require remote controllers to be carried by a user {Pinzon, col. 8, lines 25-43+}. Obviously, a voice recognition system is beneficial in the system of Clark because it provides another way of authenticating a user. Therefore, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have a voice recognition system in the system of Clark, as taught by Pinzon, because a voice recognition system do not require remote controllers to be carried by a user. A user does not need to worry about losing or carrying a remote controller.

***Response to Arguments***

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6. Applicant's arguments with respect to claims 1-2, 4, 7-12, 14, 17-21 have been considered but are moot in view of the new ground(s) of rejection.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

#### **CONTACT INFORMATION**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edwin C. Holloway, III whose telephone number is (571) 272-3058. The examiner can normally be reached on M-F from 9:00 to 5:30.

If attempts to reach the examiner by telephone are

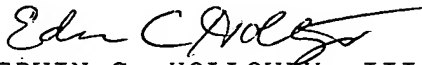
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unsuccessful, the examiner's supervisor, Brian Zimmerman, can be reached on (571) 272-3059.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EH  
8/19/07  
(571) 272-3058

  
EDWIN C. HOLLOWAY, III  
PRIMARY EXAMINER  
ART UNIT 2612